

# Leading a Fiscally Responsible Air Force Into the 21st Century

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*The Air Force is placing increased emphasis on identifying, investigating, reporting, and ultimately reducing Antideficiency Act (ADA) violations. How can you as a leader in the Financial Management organization contribute to this effort?*

## An ADA Case Study

Seeking a way to enhance squadron morale, a squadron commander directed the purchase of 322 BDU undershirts with squadron logo for a total of \$2,272.90. Operation and maintenance (O&M) funds were used to purchase the undershirts for officers and enlisted, both of whom were issued undershirts for free. The investigating officer found that 64 of the undershirts could be justified on the basis that the shirts were mandatory wear for squadron physical training. The investigating officer also found, however, that 258 undershirts (including two undershirts purchased to make senior officers honorary squadron members) costing \$1,821.10 were purchased without proper authorization. Since O&M funds could not be used for purchasing undershirts, and there is no other appropriate fund available for this purchase, an ADA violation occurred. The ADA violation was discovered during a December 1997 MAJCOM financial management organization staff assistance visit.

### ADA Case Study Causes and Circumstances

In September 1997 the squadron commander asked a subordinate to investigate whether O&M funds could be used to purchase black BDU undershirts with squadron logo. The purpose of the purchase was to boost squadron morale. Based on the subordinates research, the squadron commander concluded that O&M funds could be used to purchase the undershirts.

The initial plan was to purchase five BDU undershirts with logo per squadron military member and some inventory to issue five undershirts to future incoming personnel. However, prior to placing the order the squadron commander decided to purchase two additional BDU undershirts. The two undershirts plus one free prototype from the vendor totaled three: one each to the wing commander, vice commander, and the director of staff—to make them honorary squadron members. As a result, the squadron purchased 322 BDU undershirts at a cost of \$2,272.90.

During the ADA investigation the investigating officer asked the Air Force Personnel Center, Randolph Air Force Base, Texas, whether squadron commanders had the authority to direct wearing of the optional BDU undershirt with logo. The Personnel Center replied that *Unit commanders can make optional uniform items mandatory if approved by the installation commander and provided at no cost to the member.*

The investigating officer found that 64 of the undershirts could be justified on the basis that the shirts were mandatory wear for

squadron physical training. The investigating officer also found that 258 undershirts (including two undershirts purchased to make senior officers honorary squadron members) violated regulatory guidance and were purchased without proper authorization.

There are numerous limits placed on the obligation and expenditure of appropriated funds by language incorporated into regulations. Such language can be a direct implementation of a statute or can be completely regulatory. Normally, such regulatory provisions that act as controls on funds are found in financial and budgetary regulations such as the DoD Comptroller directives and instructions contained in the 7000 series of DoD regulations and the Air Force financial management instructions contained in the 65 series of Air Force regulations. A violation of such a restriction or limitation is normally construed to be an ADA violation.

The investigating officer concluded that only the installation commander could both approve wear of the 258 undershirts and authorize their purchase. The investigation found that the installation commander did approve wear of the shirts. However, he did not make their wear mandatory. The installation commander did not authorize squadrons to purchase logo shirts with O&M funds and expected any purchase of squadron shirts to be funded through the squadron's private organization.

The investigating officer reported that 258 undershirts, costing \$1,821.10, were inappropriately purchased and resulted in an ADA violation. In accordance with Air Force guidance, the Installation Commander had not approved the mandatory wear of BDU undershirts and the Squadron Commander did not have the authority to make wear of the BDU undershirt with logo mandatory. Therefore, O&M funds could not be used. The responsible individual reimbursed the Air Force \$1,821.10 for the cost of the undershirts.

### **Why ADA Violations Are Important to the Air Force**

ADA violations break the law. Their subsequent reporting affects the Congress and public's perception of how effectively and efficiently Air Force manages and expends funds. The Air Force, when viewed as not acting in a fiscally responsible manner, is subjected to increased Congressional oversight and funding reductions for programs and overall operating expenses. The negative publicity associated with ADA violations also overshadows the Air Force's positive efforts to achieve economics and efficiencies in overall operations.

### **Financial Management Leadership Focus**

On 1 February 1995 the responsibility for the Air Force ADA program was transferred from the Defense Finance and Accounting Center-Denver (**DFAS-DE**) to the Assistant Secretary of the Air Force (Financial Management and Comptroller) (**SAF/FM**). The Under Secretary of Defense (Comptroller) (**USD(C)**) directed the organizational change to insure that ADA investigations are completed in a more timely manner and adequate emphasis is placed on each investigation.

The Air Force's senior financial management leadership took an aggressive approach with the ADA program. They specifically focused on reducing a backlog of older ADA cases under investigation. In February 1995 SAF/FM inherited 48 ongoing ADA investigations, 43 of which were already overdue to USD(C). Of the 43 cases, 35 were investigations that began in fiscal years 1992 and 1993. With considerable help from the major commands financial management organizations the number of ongoing ADA investigations have been reduced to about 7 cases. This is a significant accomplishment considering that 29 new ADA cases have been added to the Air Force inventory since February 1995.

### **How ADA Violations Are Discovered**

The manner in which ADA violations are discovered is changing. In the past, audit reports were the primary means of identifying ADA violations. As pointed out in the opening ADA case study, Air Force financial management organizations and management reviews are overtaking audits in identifying ADA violations. This trend suggests that financial management leaderships focus on improving fiscal controls, in conjunction with more individuals receiving fiscal law and ADA awareness training, is resulting in Air Force organizations identifying, reporting, and correcting inappropriate practices in the administrative control of funds.

### **ADA Violation Causes**

Obligating, expending, or authorizing the use of funds exceeding the amount available in an appropriation or fund is the number one cause of ADA violations within the Air Force. For example, An ADA violation occurred in September 1993 because the Air Force committed \$400,000 in Base Realignment and Closure (**BRAC**) funds that were not yet legally available to contract for a Environmental Baseline Survey (**EBS**) and Environmental Impact Statement (**EIS**) for closing the O'Hare International Air Force Reserve Station (**AFRS**). The investigating officer found that \$37,779 of BRAC funds were expended at O'Hare AFRS before contract action was stopped in December 1993. The ADA violation resulted from

reliance on faulty interpretations of, and consequent failure to comply with, conditions specified by the 1993 Base Closure and Realignment Commission for the closure of O'Hare AFRS. A violation of 31 U.S.C. 1341 (a) (1) (A) occurred. Obligations authorized or incurred or expenditures made exceeded the available amount of any appropriation or fund. The USD(C) reported the above violation to the Office of Management and Budget, the President, the President of the Senate, and the Speaker of the House of Representatives in December 1996.

### **The Investigative Process**

The investigative process is divided into three parts consisting of reporting potential violations, performing a formal investigation, and reporting the investigation results. A detailed discussion of the Air Force ADA investigative process is contained in **Air Force Instruction 65-608, Antideficiency Act Violations**, 1 May 1998.

### **Reporting ADA Violations**

Once a potential violation is suspected, it must be reported within 10 working days to the cognizant Air Force Financial Management organization. Within the Air Staff, the violation must be reported to the respective Commander or his/her Resource Management Organization.

Starting in late FY 1995, SAF/FM began focusing on screening potential violations in order to present a more accurate picture of Air Force ADA activity. Air Force organizations began performing preliminary reviews, lasting up to 90 days, to gather the basic facts and determine whether a violation occurred. The preliminary review results are documented in a Preliminary Review Report. The appropriate Staff Judge Advocate organization reviews the Preliminary Review Report and provides an opinion on the adequacy of fact finding and whether a formal ADA investigation is warranted. The following is a good example of how the preliminary review process has helped reduce the number of reportable ADA violations.

#### **Preliminary Review Case Facts and Circumstances**

The matter of an improper expenditure of appropriated funds for travel and lodging was raised in a DoD hotline complaint. A preliminary review was performed in connection with the expenditure of appropriated funds by the 175th Wing, Maryland Air National Guard (ANG). The preliminary review focused on whether funds spent for travel and lodging in connection with a recruiting and retention workshop was in compliance with the Joint Federal Travel Regulation (JFTR).

The 175th Wing, Maryland ANG recruiting and retention workshop was held at the Burkshire Conference Center in Townson, Maryland, approximately 12 miles from the permanent duty station of the 175th Wing at the Martin State Airport in Middle River Township, Maryland, from 19 through 22 October 1995. Approximately 15 members of the 175th Wing recruiting group serving on full-time active duty attended the workshop. The issue investigated in the preliminary review focused on whether funds appropriated for ANG recruiting and retention related travel were legally spent to contract for meals and overnight lodging for the military personnel participating in the workshop held close to the permanent duty station of the 175th Wing.

The long-standing rule is while employees and service members are entitled to a per diem or an actual expense allowance when in a temporary duty travel status, generally, an agency may not provide employees or members with meals or lodging at government expense at their permanent duty stations as such expenses are considered personal expenses. Military members are entitled to travel and transportation allowances when away from their designated posts of duty. However, the JFTR states that members are not entitled to per diem for temporary duty within the local area outside of the limits of the permanent duty station unless overnight lodging is required. The *local area* includes the metropolitan area around the duty station served by local common carriers or the local commuting area that the commuting public travels during normal business hours on a daily basis. Since 12 miles separate Martin State Airport from the Burkshire Conference Center, the preliminary review determined the workshop location was not within the limits of the permanent duty station of the 175th Wing, but was within the defined local area of the Wing, which extends north to Pennsylvania and south to Virginia.

The preliminary review found that the 175th Wing Commander had approved an agenda for the workshop, which extended well beyond the normal duty day with nightly assignments given to the attendees. Also, the conference facilitator stated that the workshop participants had extensive homework assignments, which were worked on in teams each evening, long after normal duty hours. As a result, the preliminary review concluded that the 175th Wing Commander had specifically decided that overnight lodging was necessary for all workshop attendees.

A legal review of the facts and circumstances of this preliminary review agreed with the preliminary review officer that the expenditure of recruiting and retention travel funds for the workshop was in compliance with the JFTR because the Wing Commander, acting as the travel order approving official,

decided that overnight lodging for attendees was required to meet the purpose and intent of the workshop. Therefore, the 175th Wing expended travel funds in accordance with the JFTR and no ADA violation occurred.

When confronted with a suspected DA violation, don't panic. Keep in mind that the suspected inappropriate use of appropriated funds does not automatically result in an ADA violation. The preliminary review screening process has resulted in more effective use of investigative resources, legal staff time, and training required to perform and report ADA investigations.

### **ADA Program Successes**

The Air Force has successfully reduced the backlog of older ADA investigations and implemented improved screening procedures for identifying potential violations. In addition, Air Force leaders are focusing more attention on preventing ADA violations. MAJCOM, FOA, DRU, and Air Staff ADA prevention initiatives include increased fiscal and appropriation law training along with comprehensive management program and budget reviews. Air Force leaders focus on preventive measures has helped the Air Force achieve our short-term goal of reducing the number of reported ADA cases to less than 10.

### **Improving Investigation Timeliness**

Although the Air Force's ADA program has successfully reduced the number of reported ADA cases, greater emphasis needs to be directed towards improving investigation timeliness. The Air Force, on average, is taking about 17 months to complete the investigative process. DoD guidance requires that the ADA investigation take no longer than nine months from start to submission of the Summary Report of Violation to USD(C).

ADA violations are not completed within the required nine month investigation and reporting period primarily because (1) the investigation is not the investigating officer's primary duty until completion, (2) the organizational activity where the violation occurred did not make timely procedural corrections to prevent future violations and/or correct the adverse funding condition that resulted from the violation, (3) the individual(s) identified as responsible for the violation were not provided an opportunity to comment on the investigation results, (4) the disciplinary action decision was not adequately supported, and (5) legal reviews take a long time to complete.

### **Summary**

A recent DoD Inspector General report on the Air Force plan for implementing new DoD guidance on ADA violations stated that *The Air Force gave a high priority to improving, investigating and reporting on Antideficiency Act violations. We commend the efforts of the Air Force.* The Air Force has successfully implemented a program for identifying, investigating and reporting ADA violations. In addition, tremendous progress has been made in reducing the backlog of older ADA investigations and number of new cases reported for investigation. Most of the improvement is attributable to increased support from senior SAF/FM leaders, more attention and involvement from major command financial management organizations in identifying and investigating ADA cases, better screening of suspected violations, and improved ADA training.

The current challenge is to improve the timeliness of the ADA investigative process. Recent initiatives to improve investigation timeliness include the introduction of ADA investigating officer *just in time* training and the publication of **AFI 65-608**. To further improve the investigative process, organizational commanders need to more closely monitor the status of ongoing investigations and take whatever actions are appropriate to identify and correct the factors causing unacceptable reporting delays.



## **About the Author**



**M**r David Sapp is assigned to the Air Force audit liaison and follow-up organization (SAF/FMPF) in the Pentagon. He works with Major Commands and Air Staff organizations in identifying, investigating, and reporting potential ADA violations. Mr Sapp has a bachelor of science in Business Administration from Fairmont State College and is a graduate of the Army Comptrollership Program, receiving a MBA from Syracuse University. He is also a Council for Excellence in Government Senior Fellow. His prior work experience includes assignments with the Air Force Audit Agency and the US General Accounting Office. He is a Certified Government Financial Manager and a member of the Washington Chapter of ASMC.

